

RK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Nov

TRUEPOSITION, INC.)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:11-cv-4574 (RK)
)	
LM ERICSSON TELEPHONE COMPANY,)	
)	
QUALCOMM INC.,)	
)	
ALCATEL-LUCENT, S.A.,)	
)	
THIRD GENERATION PARTNERSHIP)	
PROJECT a/k/a 3GPP,)	
)	
and)	
)	
EUROPEAN TELECOMMUNICATIONS)	
STANDARDS INSTITUTE)	
)	
Defendants.)	

**STIPULATION AND ORDER TO SUBSTITUTE ALCATEL-LUCENT USA INC.
AS A PARTY DEFENDANT FOR ALCATEL-LUCENT. S.A.**

WHEREAS the Complaint in this action names as a defendant Alcatel-Lucent, S.A., which has entered an appearance through counsel, reserving, however, the issue of personal jurisdiction and stating that its proper corporate name is Alcatel Lucent (hereinafter "Alcatel Lucent"); and

WHEREAS Alcatel Lucent has filed a motion to dismiss raising, among other defenses, the defense under Federal Rule of Civil Procedure 12(b)(2) of lack of personal jurisdiction; and

WHEREAS counsel have concluded that the issue of personal jurisdiction may be resolved to the satisfaction of these parties, subject to the approval of the Court, by the following stipulation and agreement;

Alm

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between plaintiff TruePosition, Inc. and defendant Alcatel Lucent as follows:

1. Defendant Alcatel Lucent shall be dismissed from this action with prejudice and Alcatel-Lucent USA Inc., a Delaware Corporation with headquarters in Murray Hill, New Jersey, the ultimate corporate parent of which is Alcatel Lucent, shall be substituted for defendant Alcatel Lucent for all purposes, subject to the following terms and conditions.

a. Solely for the purposes of this action and for determining whether liability attaches to or results from the conduct of an employee or agent of Alcatel Lucent or any direct or indirect subsidiary thereof in connection with the 3GPP standard setting activity that is the subject of the Complaint, each such employee or agent shall be deemed an employee or agent of Alcatel-Lucent USA Inc., his or her conduct shall be deemed imputed to Alcatel-Lucent USA Inc., and Alcatel-Lucent USA Inc. shall be legally and financially responsible for the conduct of such individuals and the entities by which they are actually employed.

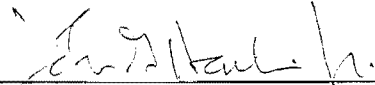
b. Written discovery directed to Alcatel-Lucent USA Inc. shall be responded to in a manner that incorporates all relevant information and documents in the possession of Alcatel Lucent and each of the direct or indirect subsidiaries, to the extent permitted by the law governing the information, documents, and entities at issue. Alcatel-Lucent USA Inc. shall cause to be made available for depositions such individuals who are employed by Alcatel Lucent and the direct and indirect subsidiaries who have directed or been engaged in the 3GPP standard setting activities that are the subject of the Complaint and who are noticed for depositions, to the extent permitted by the governing law.

2. Nothing herein shall be deemed to constitute an admission of liability by Alcatel Lucent or Alcatel-Lucent USA, Inc. or any of Alcatel Lucent's direct or indirect subsidiaries.

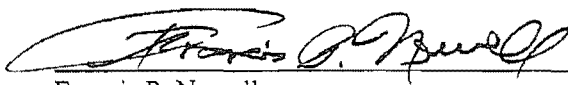
3. By reason of this Stipulation, when approved by the Court, that part of Alcatel Lucent's Motion to Dismiss premised on Federal Rule of Civil Procedure 12(b)(2) shall be deemed withdrawn as moot.

4. As a substituted defendant in this action, Alcatel-Lucent USA Inc. consents to the personal jurisdiction of the Court over it, but otherwise adopts the Motion to Dismiss filed by Alcatel Lucent, which Motion shall be deemed amended to name Alcatel-Lucent USA Inc. as the moving party.

ENTERED INTO THIS 31st DAY OF OCTOBER 2011.


John G. Harkins, Jr. (04441)
jharkins@harkinscunningham.com
Colleen Healy Simpson (84956)
csimpson@harkinscunningham.com
Harkins Cunningham LLP
2800 One Commerce Square
2005 Market Street
Philadelphia, PA 19103-7042
Tel: (215) 851-6700

Douglas E. Rosenthal
Seth D. Greenstein
David Golden
Aymeric Dumas-Eymard
Constantine Cannon LLP
Suite 1050 East Tower
1301 K Street NW
Washington, D.C. 20005
Tel: 202-204-3514


Francis P. Newell
fnewell@cozen.com
Peter Michael Ryan
pryan@cozen.com
Cozen O'Connor
1900 Market Street
Philadelphia, Pennsylvania 19103
Tel: 215-665-2000

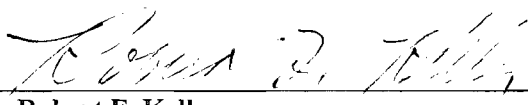
A. Stephen Hut, Jr.
Ali M. Stoeppelwerth
Brian Boynton
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
Tel: 202-663-6000

**Counsel for Defendants Alcatel Lucent
and Alcatel-Lucent USA Inc.**

Alysia A. Solow
Gordon Schnell
Constantine Cannon LLP
335 Madison Avenue
9th Floor
New York, NY 10017
Tel: 212-350-2700

Counsel for Plaintiff TruePosition, Inc.

APPROVED AND SO ORDERED, ^{Nov,}~~OCTOBER~~ 4, 2011



Hon. Robert F. Kelly

HARKINS CUNNINGHAM LLP

Attorneys at Law

Writer's Direct Dial
(215) 851-6701
jharkins@harkinscunningham.com

2800 One Commerce Square
2005 Market Street
Philadelphia, PA 19103-7042

Telephone 215.851.6700
Facsimile 215.851.6710

NOV

November 1, 2011

BY HAND DELIVERY

The Honorable Robert F. Kelly
United States District Court for the
Eastern District of Pennsylvania
601 Market Street
Room 11613
Philadelphia, PA 19106-1765

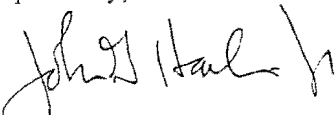
Re: *TruePosition, Inc. v. LM Ericsson Telephone Company, et al.*
Civil Action No. 2:11-cv-04574

Dear Judge Kelly:

With co-counsel, I represent the plaintiff, TruePosition, Inc., in the above-captioned matter. I enclose for the Court's consideration a courtesy copy of a Stipulation and Order to Substitute Alcatel-Lucent USA Inc. as a Party Defendant for Alcatel-Lucent, S.A. If Your Honor approves this Stipulation, that will obviate the need to consider that portion of the Alcatel Lucent Motion to Dismiss that rested on personal jurisdiction grounds. We have separately e-mailed an electronic copy of the Stipulation and Order to the Clerk's Office.

We appreciate the Court's continued courtesy in this matter.

Respectfully,



John G. Harkins, Jr.

Enclosure

cc: All Counsel of Record (via e-mail)